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FROM: Deborah A. Vaudo

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Application No.: 10/798,541

Inventor(s): Michael J. Gray et al

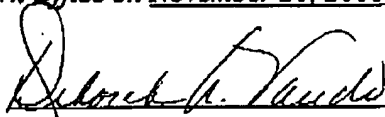
Filed: March 11, 2004

Docket No.: 8135 / Z-03368

Confirmation No.: 6481

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CENTRAL FAX CENTER****NOV 20 2006****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No. : 10/798,541
Inventor(s) : Michael Gray
Filed : 03/11/2004
Art Unit : 3724
Examiner : Michalski
Docket No. : 8135 / Z-03368
Confirmation No. : 6481
Customer No. : 27752
Title : Shaving Razor With Trimming Blade

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

This Brief is filed pursuant to the appeal from the decision communicated in the Office Action mailed on August 31, 2006.

A timely Notice of Appeal was filed on November 16, 2006.

REAL PARTY IN INTEREST

The real party in interest is The Gillette Company of Boston, MA.

RELATED APPEALS AND INTERFERENCES

There are no known related appeals, interferences, or judicial proceedings.

STATUS OF CLAIMS

Claims 2, 3 and 5- 15 are pending.

Claims 2, 3 and 5 - 15 are rejected.

Claims 2, 3 and 5 - 15 are appealed.

A complete copy of the appealed claims is set forth in the Claims Appendix attached herein.

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STATUS OF AMENDMENTS

No amendment was filed.

SUMMARY OF CLAIMED SUBJECT MATTER

The present claims are directed to a shaving razor with a housing having a primary guard at the front of the housing and a primary cap at an upper surface of the back of the housing. This is set out on page 3, lines 15-21 of the specification and in Figure 16. One or more primary shaving blades are positioned between the primary guard and primary cap. This is set out on page 3, lines 15-21 of the specification and in Figure 16. A trimming blade is mounted at the back of the housing and has a cutting edge oriented away from the upper surface. This is set out on page 3, lines 20-26 and page 4, lines 11-24 of the specification. An elongated handle having a first end and second end with a finger pad at the first end on the same side as the primary blades. This is set out on page 1, lines 24-29 of the specification and in Figures 15 and 16.

The claims are also directed to the handle being bifurcated adjacent the first end into two portions creating a region between the two portions. The portions are joined at the first end to enclose the region. This is set out on page 1, lines 1-6 of the specification and in Figure 16.

GROUND'S OF REJECTION TO BE REVIEWED ON APPEAL

1. Claims 2, 4, 9/2 and 12/2 stand rejected under 35 USC §102(b) as being anticipated by Rozenkranc (US 6,276,061).
2. Claims 3, 5, 6, 9/3 and 12/3 stand rejected under 35 USC §103(a) as being unpatentable over Rozenkranc in view of Gilder (US 5,533,263).
3. Claim 7 stands rejected under 35 USC §103(a) as being unpatentable over Rozenkranc.
4. Claims 8/2 and 8/4 stand rejected under 35 USC §103(a) as being unpatentable over Rozenkranc in view of Bosy (6,598,303).
5. Claim 8/5 stands rejected under 35 USC §103(a) as being unpatentable over Rozenkranc in view of Gilder as applied to claim 5, and further in view of Bosy.
6. Claims 10/2 and 11/2 stand rejected under 35 USC §103(a) as being unpatentable over Rozenkranc as applied to claims 1 or 2 in view of "Platinum Mach 14".

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7. Claims 10/3 and 11/3 stand rejected under 35 USC §103(a) as being unpatentable over Rozenkranc in view of Gilder as applied to claim 3 and further in view of "Plantinum Mach 14".

ARGUMENTS

1. Claims 2, 4, 9/2 and 12/2 stand rejected under 35 USC §102(b) as being anticipated by Rozenkranc (US 6,276,061). This rejection is traversed. Claim 4 is not being appealed.

Rozenkranc fails to anticipate independent 2. Claim 2 recites that the finger pad is "at said first end" of the handle, i.e., the end of the handle that is secured to the housing. See, for example, the positioning of finger pad 726 in Fig. 16 of Applicant's specification. There is clearly no finger pad in this position on Rozenkranc's handle. The position that the Examiner alleges has a finger pad is approximately halfway between the first end and the second end of Rozenkranc's handle. That is, the alleged finger pad of Rozenkranc is positioned in the middle of the handle and not at the end.

To illustrate the extreme position that the Examiner has taken a comparative example might be helpful. If one were to place a football on the 45 yard line of a football field one would not say that the football is placed at one end of the field. One would say that the football is placed in the middle of the field. It is true, that a football placed on the 45 yard line is closer to one end of the field than the other. However, it is not true that the football is placed at one end of the field.

The same can be said for the alleged finger pad of Rozenkranc. The finger pad is placed closer to one end of the handle versus the other. But the finger pad of Rozenkranc is positioned in the middle of the handle and not at the first end.

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Thus, even if there is a finger pad in the area indicated by the Examiner, this cannot fairly be construed to be positioned "at the first end" of the handle. Rozenkranc fails to anticipate independent claim 2.

As Rozenkranc fails to anticipate independent claim 2, Rozenkranc also fails to anticipate claims 9 and 12 which depend from independent claim 2.

2. Claims 3, 5, 6, 9/3 and 12/3 stand rejected under 35 USC §103(a) as being unpatentable over Rozenkranc in view of Gilder (US 5,533,263). This rejection is traversed.

Claim 3 recites that the handle be bifurcated into two portions such that there is a region between the two portions and the two portions be joined at the first end to enclose the region defined by the two portions. This is clearly not the case in the Gilder reference, which is cited to supply a teaching of the claimed bifurcated handle. The Examiner relies on a separate member from the handle, i.e., the cartridge, to join the two portions of Gilder's handle. Thus, it is the handle + cartridge that is forming the enclosed structure of Gilder and not the handle alone as claimed. The Examiner acknowledges that Rozenkranc does not teach a bifurcated handle. Thus, neither Rozenkranc nor Gilder teaches or suggests a handle having the claimed bifurcated construction.

Accordingly, the combination of Rozenkranc and Gilder does not establish a *prima facie* case of obviousness because it does not teach or suggest all of the claim limitations of independent claim 3. As such, claim 3 is patentable over the combination. Since claims 5, 6, 9/3 and 12/3 all depend from independent claim 3, they are also patentable over the combination of Rozenkranc and Gilder for the same reasons as independent claim 3.

3. Claim 7 stands rejected under 35 USC §103(a) as being unpatentable over Rozenkranc. This rejection is traversed.

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Rozenkranc does not establish a *prima facie* case of obviousness because it does not teach or suggest all of the claim limitations of independent claim 2, from which claim 7 depends both directly and indirectly. As such, claim 7 is patentable over Rozenkranc.

4. Claims 8/2 and 8/4 stand rejected under 35 USC §103(a) as being unpatentable over Rozenkranc in view of Bosy (6,598,303). This rejection is traversed. Claim 4 is not being appealed.

The combination of Rozenkranc and Bosy does not establish a *prima facie* case of obviousness because the combination does not teach or suggest all of the claim limitations of independent claim 2 from which 8/2 depends. Bosy does not provide the missing elements of Rozenkranc mentioned above. As such, claim 8/2 is patentable over the combination of Rozenkranc and Bosy.

5. Claim 8/5 stands rejected under 35 USC §103(a) as being unpatentable over Rozenkranc in view of Gilder as applied to claim 5, and further in view of Bosy. This rejection is traversed.

The combination of Rozenkranc, Gilder and Bosy does not establish a *prima facie* case of obviousness because the combination does not teach or suggest all of the claim limitations of independent claim 3 from which 8/5 depends. Bosy does not provide the missing elements of Rozenkranc and Gilder mentioned above. As such, claim 8/5 is patentable over the combination of Rozenkranc, Gilder and Bosy.

6. Claims 10/2 and 11/2 stand rejected under 35 USC §103(a) as being unpatentable over Rozenkranc as applied to claim 2 in view of "Platinum Mach 14". This rejection is traversed.

The combination of Rozenkranc and "Platinum Mach 14" does not establish a *prima facie* case of obviousness because the combination does not teach or suggest all of the claim limitations of independent claim 2 from which 10/2 and 11/2 depend. "Platinum Mach 14" does not provide the missing elements of Rozenkranc mentioned above. As such, claims 10/2 and 11/2 are patentable over the combination of Rozenkranc and "Platinum Mach 14".

7. Claims 10/3 and 11/3 stand rejected under 35 USC §103(a) as being unpatentable over Rozenkranc in view of Gilder as applied to claim 3 and further in view of "Platinum Mach 14".

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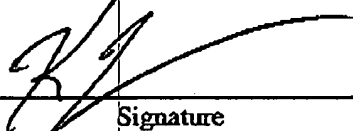
This rejection is traversed.

The combination of Rozenkranc, Gilder and "Platinum Mach 14" does not establish a *prima facie* case of obviousness because the combination does not teach or suggest all of the claim limitations of independent claim 3 from which 10/3 and 11/3 depend. "Platinum Mach 14" does not provide the missing elements of Rozenkranc and Gilder mentioned above. As such, claims 10/3 and 11/3 are patentable over the combination of Rozenkranc, Gilder and "Platinum Mach 14".

SUMMARY

In view of all of the above, it is respectfully submitted that the claims be allowed on appeal.

Respectfully submitted,
THE GILLETTE COMPANY



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Kevin C. Johnson

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Date: November 20, 2006

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CLAIMS APPENDIX

2. A shaving razor comprising
a housing having a primary guard at a front of said housing and a primary cap at an upper surface at a back of said housing, one or more primary shaving blades between said primary guard and said primary cap,
a trimming blade mounted at the back of said housing having a trimming blade cutting edge oriented away from said upper surface, and
an elongated handle having a first end secured to said housing, said handle having a finger pad at said first end on the same side as said primary blades.
3. A shaving razor comprising
a housing having a primary guard at a front of said housing and a primary cap at an upper surface at a back of said housing, one or more primary shaving blades between said primary guard and said primary cap,
a trimming blade mounted at the back of said housing having a trimming blade cutting edge oriented away from said upper surface, and
an elongated handle having a first end secured to said housing, said handle being bifurcated adjacent said first end into two portions such that there is a region between said two portions, the two portions joining at the first end to enclose the region.
5. The shaving razor of claim 3 wherein said handle has a finger pad at said first end on the same side as said primary blades.
6. The shaving razor of claim 2 wherein said handle is bifurcated at said first end into two portions such that there is a region between said two portions, the region being positioned to provide access to the finger pad.

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7. The shaving razor of claim 2 or 5 wherein said finger pad is made of elastomeric material.

8. The shaving razor of claim 2, 5 or 6 wherein said handle has relieved surfaces positioned to provide access to said finger pad.

9. The shaving razor of claim 2 or 3 wherein there are three or more said primary shaving blades.

10. The shaving razor of claim 2 or 3 wherein there are four or more said primary shaving blades.

11. The shaving razor of claim 2 or 3 wherein there are five or more said primary shaving blades.

12. The shaving razor of claim 2 or 3 wherein said housing is pivotally connected to said handle by a connection that has an at rest stop position to prevent pivoting of said housing when the trimming blade is cutting hair.

13. The shaving razor of claim 2 or 3 wherein said handle has a curve at said first end that is concave on the same side as said primary blades.

14. The shaving razor of claim 2 wherein said finger pad is generally oval in shape.

15. The shaving razor of claim 3, further comprising a finger pad positioned where said two portions join at the first end.

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EVIDENCE APPENDIX

None

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RELATED PROCEEDINGS APPENDIX

None